

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 373 CS

Local Occupational License Taxes

SPONSOR(S): Goldstein

TIED BILLS:

IDEN./SIM. BILLS: SB 1022

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	8 Y, 0 N, w/CS	Monroe	Diez-Arguelles
2) Local Government Council		Camechis	Hamby
3) Fiscal Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill allows a municipality which adopted its local occupational license tax ordinance after October 1, 1995, to revise its current rate structure or classification in accordance with the provisions in s. 205.0535, F.S., before October 1, 2006. This revision method allows a municipality more flexibility to revise its local occupational license tax rate structure and classifications than is possible under current law.

Finally, this bill provides specific authority for counties and municipalities to decrease or eliminate local occupational license taxes.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides for Lower Taxes – This bill provides authority for municipalities to revise current occupational tax ordinances. The bill also permits municipalities and counties to lower or eliminate local occupational license taxes. As such, this bill should result in lower occupational license taxes for some taxpayers. However, the bill may also result in an increase in the occupational license taxes for some types of licenses.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Currently, the method for adopting an occupational license tax ordinance, revising the rate structure of such a tax, or reclassifying occupations within the tax structure are dependent on both the date of the adoption of the tax and the statute under which it was adopted. Municipalities wishing to revise their rate structure and classification must do so under s. 205.043, F.S., or adopt a new ordinance under s. 205.0315, F.S.

Section 205.043, F.S., does not include provisions for revising classifications other than requiring that they be “reasonable” and “uniform throughout any class”. Rate structure revisions have been permitted under this section since October 1, 1980, however the increases are limited by the following percentages:

- For taxes under \$100, a 100% increase is permitted,
- For taxes between \$101 and \$300, a 50% increase is permitted,
- For taxes over \$300, a 25% increase is permitted, and, since October 1, 1982,
- For taxes levied at a graduated or per unit rates, the increase may not exceed 25%.

Section 205.0315, F.S., requires new ordinances to be based on the ordinances of adjacent local governments which adopted their ordinances under s. 205.0535, F.S. If no such government exists, then the ordinance may be based on the ordinance of a jurisdiction of comparable population that adopted its ordinance under s. 205.0535, F.S.

Effect of Proposed Changes

The committee substitute allows a municipality, but not a county, that adopted its local occupational license tax ordinance after October 1, 1995, to revise its current rate structure or classification in accordance with the provisions of s. 205.0535, F.S., before October 1, 2006. This revision method allows a municipality more flexibility to revise its local occupational license tax rate structure and classifications than is possible under current law.

Pursuant to s. 205.0535, F.S., before adopting a reclassification and revision ordinance, the municipality or county must establish an equity study commission and appoint its members. Each member of the study commission must be a representative of the business community within the local government's jurisdiction. Each equity study commission must recommend to the appropriate local government a classification system and rate structure for local occupational license taxes.

After the reclassification and rate structure revisions have been transmitted to and considered by the appropriate local governing body, it may adopt by majority vote a new occupational license tax ordinance. Except that a minimum license tax of up to \$25 is permitted, the reclassification may not increase the occupational license tax by more than the following:

- For licenses costing \$150 or less, 200 percent;
- For licenses costing more than \$150 but not more than \$500, 100 percent;
- For licenses costing more than \$500 but not more than \$2,500, 75 percent;
- For licenses costing more than \$2,500 but not more than \$10,000, 50 percent; and
- For licenses costing more than \$10,000, 10 percent.

However, in no case may any license be increased more than \$5,000 nor may the revenue from the tax as a whole exceed the limitation described in that section. Thereafter, occupational license taxes may be increased by up to 5% per year upon the vote of a majority plus one of the municipalities's governing body.

Finally, the committee substitute grants counties and municipalities the authority to decrease or eliminate occupational license taxes. Currently, the statute does not explicitly grant such authority and the Attorney General's Office has advised a number of jurisdictions that, in the absence of such authority, no decrease or elimination is possible. In AGO 2002-81, the Attorney General writes:

On several occasions, this office has addressed the authority of a municipality to alter its occupational license tax ordinance, through the exemption of certain categories of occupations or businesses or by decreasing the rates for a particular classification. In the absence of legislative authorization, this office has determined that no such alteration may be made. Given the number of instances where local governments have sought to make such alterations, it may be advisable to seek legislative changes to provide the necessary authority.

C. SECTION DIRECTORY:

Section 1. Amends section 205.0535, F.S., to allow municipalities which have adopted an occupational license tax ordinance since 1995 to reclassify businesses, professions, and occupations, and establish new rate structure under the provision of that section.

Section 2. Provides that the bill shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues: None
- 2. Expenditures: None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues: This bill will give municipalities and counties more flexibility to adopt or revise local occupational license taxes, including the ability to reduce or eliminate those taxes.
- 2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will grant municipalities and counties the authority to eliminate or reduce local occupational license taxes. As such, some taxpayers may see a reduction in or elimination of these taxes.

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not Applicable.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2005, the Committee on Finance and Tax adopted as strike everything amendment to the bill, which substantially limited the scope of the bill. The strike everything was then adopted as a committee substitute. The committee substitute:

- Allows a municipality which adopted its ordinance after October 1, 1995, to revise its current rate structure or classification in accordance with the provisions on s. 205.0535, F.S., before October 1, 2006; and
- Grants counties and municipalities the authority to decrease or eliminate occupational license taxes.

As originally drafted, the bill would have:

- Allowed counties and municipalities wishing to adopt a license tax ordinance to choose to base their ordinances on the ordinances of any adjacent local governments or governments that have a comparable population. Currently, s. 205.0315, F.S., requires that new ordinances must be based on the ordinances of adjacent local governments which adopted their ordinances under s. 205.0535, F.S. If no such government exists then the ordinance may be based on the ordinance of a jurisdiction of comparable population which adopted its ordinance under s. 205.0535, F.S.;
- Eliminated the restrictions on rate revisions which apply to municipalities that adopted an occupational license tax under a statute other than s. 205.0535, F.S., or s. 205.0315, F.S.;
- Moved language regarding local exchange telephone services to promote clarity;
- Allowed any county or municipality to revise their current rate structure or classification in accordance with the provisions on s. 205.0535, F.S.; and
- Granted counties and municipalities the authority to decrease or eliminate occupational license taxes.